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T.R.A. DOCKET ROOM

H LaDon Baltimore

February 17, 2004

Guilford F Thornton, Jr, Esq
Stokes, Bartholomew, Evans & Petree
424 Church Street, Suite 2800
Nashville, TN 37219

Re Complaint of Citizens Telecommunications Company of Tennessee, L L C against
Ben Lomand Communications, Inc, Docket No 03-00331

Dear Gif

Enclosed please find the original of my client's responses to Citizens' First Set of
Discovery Requests, a copy of which was faxed to you yesterday

Please do not hesitate to contact me if you have questions or if we need to discuss this

Sincerely,



H LaDon Baltimore
Ben Lomand Communications, Inc

LDB/dcg
Enclosure
cc TRA, Attn Sharla Dillon

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**COMPLAINT OF CITIZENS
TELECOMMUNICATIONS
COMPANY OF TENNESSEE, L.L.C.,**

Petitioner,

Against

**BEN LOMAND COMMUNICATIONS,
INC.,**

Respondent.

DOCKET NO. 03-00331

**RESPONSE OF BEN LOMAND COMMUNICATIONS, INC. TO
FIRST SET OF DISCOVERY REQUESTS OF
CITIZENS TELECOMMUNICATIONS COMPANY OF TENNESSEE, LLC**

Ben Lomand Communications, Inc ("Ben Lomand" or "BLC") responds to Citizens Telecommunications Company of Tennessee, LLC's ("Citizens") first set of discovery requests as follows

A General Objections

1 Ben Lomand objects to the First Set of Discovery Requests to the extent such requests seek information or documents that are privileged under the attorney client privilege, work product, or any other privilege

2 Ben Lomand objects to the First Set of Discovery Requests insofar as the requests are vague, ambiguous, overly broad, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any answers provided by Ben Lomand in response to these data requests will be provided subject to, without waiver of, the foregoing objection

3 Ben Lomand objects to the First Set of Discovery Requests insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. Ben Lomand will attempt to note in its responses each instance where this objection applies

4 Ben Lomand objects to providing information to the extent that such information is already in the public record before the Tennessee Regulatory Authority ("TRA") or has previously been furnished to Citizens or its affiliates in this or any similar proceeding

5 Ben Lomand objects to Citizens' discovery requests, instructions, and definitions insofar as they seek to impose obligations on Ben Lomand that exceed the requirements of the Tennessee Rules of Civil Procedure and the TRA's Rules of Practice and Procedure

6 To the extent that such requests are overly broad and unduly burdensome, Ben Lomand objects to any discovery request that seeks to obtain "all" of particular documents, items, or information Any answers provided by Ben Lomand in response to this discovery will be provided subject to, and without waiver of, the foregoing objection

7 Ben Lomand objects to the manner in which certain discovery is requested Ben Lomand may not maintain information in the ordinary course of its business in the particular format requested by Citizens Ben Lomand objects to providing responsive information in the format requested by Citizens on the grounds that doing so would be overly broad, unduly burdensome, and oppressive

8 Ben Lomand objects to any request to the extent that it seeks confidential and proprietary information No proprietary agreement has been signed, nor has any protective order been issued in this docket

9 Ben Lomand objects to each and every one the First Set of Discovery Requests to the extent they seek to have Ben Lomand create documents or information not in existence at the time of the discovery request

Any responses provided by Ben Lomand to Citizens requests will be provided subject to, and without waiver of, the foregoing objections Ben Lomand will make partial responses to the extent reasonably consistent with Ben Lomand's objections

B. Specific Objections and Responses

I. INTERROGATORIES

1 Identify each person who provided information or documents in response to these requests, and for each such person identified, state the matters known to such person as they relate to the response(s) or documents provided

RESPONSE Objection provided by counsel Substantive responses provided by Levoy Knowles, Judy Kelsey, or Tommy Brown (drop cable and wiring)

2 Identify each and every instance where BLC has offered a rate, service or charge (or reduced or no-charge) for service or installation ("special promotion") that was not specifically listed in BLC's tariff filed with the TRA These instances include special promotions such as those identified in Citizens' response to the data requests of the TRA filed July 14, 2003 For each instance described, state (a) the terms of the special promotion, (b) the manner (e.g. newspaper advertisement, direct mail, radio or television advertisement, etc.) in which such

special promotion was offered, (c) the dates the special promotion was offered, (d), the persons to whom the special promotion was offered, (e) all customers who participated in the promotion and became BLC customers, who were formally Citizens' customers, and (f) the manner in which the TRA was notified of such special promotion, and any response of the TRA thereto

RESPONSE Ben Lomand objects to interrogatory no 2 Ben Lomand adopts and incorporates its Objections 2, 3, 4, 7, 8 and 9 as if set forth herein verbatim Ben Lomand further objects in that a Motion to Dismiss the allegation of not filing a tariff is pending Such Motion avers that only the TRA may enforce filing of tariffs, not a private party Without waiving its objections, Ben Lomand answers as follows

Ben Lomand denies that it has offered a rate, service or charge that was not listed in a required tariff filing The special promotions referred to by Citizens in its July 14, 2003 letter to the TRA were approved by the TRA or were offered by Ben Lomand Telephone Co-Op, Inc , not Ben Lomand Communications, Inc The majority (7 of 10) of the ads attached as exhibits to such letter were for Ben Lomand Telephone Co-Op, Inc

3 Identify the persons who proposed, calculated, prepared, reviewed, and/or approved the special promotions identified in response to interrogatory number 2

RESPONSE Judy Kelsey and the Ben Lomand Marketing Department

4 State BLC's costs with respect to the services offered through each special promotion identified in response to interrogatory number 2 as they relate to the price floor established by T C A § 65-5-208 (c)

RESPONSE Ben Lomand adopts and incorporates its Objections 1, 3, and 8 as if set forth herein verbatim Ben Lomand further reiterates that such information is proprietary and confidential and no protective order has been issued in this docket Without waiving its objections, Ben Lomand would state as follows

Ben Lomand denies that each special promotion is below the price floor and would aver each special promotion is in compliance with all Tennessee statutes and TRA rules and regulations Furthermore, Ben Lomand asserts that the price floor of T C A § 65-5-208(c) does not apply to Competitive Local Exchange Carriers, of which Ben Lomand is one

5 For each customer identified in response to interrogatory number 2(e), please state (a) the date that customer became a BLC customer, (c) the amount of profit that BLC has made (or lost) on that customer per month since becoming a BLC customer and (b) whether the customer is still a BLC customer

RESPONSE Ben Lomand adopts and incorporates its objections 3, 7, 8 and 9 as if set forth herein verbatim Without waiving its objections, Ben Lomand would state as follows

Ben Lomand does not have such data available Furthermore, Ben Lomand would assert that such data is not relevant to this matter

6 In the event that BLC has offered any special promotion without first filing any documents with the TRA with respect to such special promotion, please explain why BLC did not first file any documents with the TRA regarding each such special promotion

RESPONSE Ben Lomand alleges and asserts that all tariff filings were properly done with the TRA

7 Identify each instance where BLC used drop wire, housing cabling on the network side of the customer interface point, and entrance cabling not owned by BLC to provide service to former customers of Citizens that BLC has taken away from Citizens In this regard, identify each instance by providing the (a) location where the instance occurred, (b) the manner in which it occurred, (c) the reason for the use, (d) the time period during which the use occurred, (e) the steps BLC took, if any, to stop the use

RESPONSE Ben Lomand adopts and incorporates its objections 7, 8 and 9 as if set forth herein verbatim Without waiving its objections, Ben Lomand would state as follows

Due to the lack of specificity in the complaint, Ben Lomand is not able to respond to the allegations, except to state that Ben Lomand is aware of only three (3) instances in which Citizens alleges use of its facilities prior to the filing of the complaint The complaint involved Cumberland Plaza, 800 Sparta Street, and the Three Star Mall Exhibit 1 is a letter from Frontier (Citizens) of May 2, 2002 complaining of such misuse However, no specific locations were noted Exhibit 2 is a May 22, 2002 letter from the Kraskin law firm on behalf of Ben Lomand answering such allegations

As a result of these letters, meetings were held between Ben Lomand and Citizens to resolve such allegations, including meetings at the sites which were the subject of the May 22, 2002 letter Ben Lomand has been of the opinion that all such allegations had been resolved Ben Lomand would assert that all such locations that were the topic of such discussions have been rewired and Ben Lomand denies that any Citizens facilities have been used and would assert that all facilities used are Ben Lomand's

To address each location specifically, the 800 Sparta Street facilities are owned by the apartment owner who so represented to Ben Lomand Ben Lomand further alleges that several of Citizens' wiring facilities and the locations, especially those built in the early 1970s such as the Three Star Mall, were not up to codes and were replaced by Ben Lomand Also, the Cumberland Plaza owner represented the outside cable was the mall's property Of note is that the Plaza has been torn down

Furthermore, Ben Lomand asserts that it has followed all TRA rules and regulations and FCC orders regarding multi-use buildings and tenants

8 State the number of access lines for BLC in McMinnville and in Sparta for each month since it entered those markets to the present broken out by business and residence access lines

RESPONSE Ben Lomand adopts and incorporates its objections 3, 7, 8 and 9 as if set forth herein verbatim. Specifically, Ben Lomand would assert its objection that no protective order has been issued in this docket. Without waiving such objections, Ben Lomand would state that no such data is available. Ben Lomand does not differentiate between business and residential lines with respect to the number of lines for reporting purposes.

9 What sources and amounts of funding has BLC received from its affiliates, particularly Ben Lomand Rural Telephone Cooperative ("BLRTC")?

RESPONSE Ben Lomand adopts and incorporates its objections 1, 2, 3, and 8 as if set forth herein verbatim. Without waiving such objections, Ben Lomand would deny that it receives any funding from BLRTC.

10 What is the rate of Return on Investments for BLC's exchanges in McMinnville and Sparta as of December 31, 2002?

RESPONSE Ben Lomand adopts and incorporates its objections 3, 6, 7, 8, and 9 as if set forth herein verbatim. Without waiving its objections, Ben Lomand would state that it does not have such data. The rate of return on investments is only required to be furnished by Incumbent Local Exchange Carriers.

11 Indicate the number of customers by month and by class of service that have left BLC and returned to Citizens and the reason the customer gave for leaving BLC if known.

RESPONSE Ben Lomand adopts and incorporates its objections 3, 7, 8 and 9 as if set forth herein verbatim. Without waiving its objections, Ben Lomand would state that it does not have such information month-to-month by class of service. To Ben Lomand's knowledge, only price has been the reason a customer has given for leaving Ben Lomand. Since Ben Lomand is the only competitor to Citizens, any customer leaving Ben Lomand would be known to Citizens.

II. DATA/DOCUMENT REQUESTS

1 Identify and produce copies of all BLC cost studies, supporting data, correspondence, and documentation arising from or related to the special promotions identified in response to interrogatory number 2, including, but not limited to, cost studies and supporting data.

not furnished to the Tennessee Regulatory Authority and all other documentation and/or calculations relied upon in producing such cost studies

RESPONSE Ben Lomand adopts and incorporates its objections 3, 6, 7, 8 and 9 as if set forth herein verbatim Without waiving its objections, Ben Lomand would state that it does not have and did not do such cost studies, supporting data, etc Further, without waiving such objections, Ben Lomand would state that it does not aggregate information by promotions, etc

2 Identify and produce the cost studies and related documents prepared by or for BLC for the competitive Centrex product BLC sells in McMinnville and Sparta

RESPONSE See Ben Lomand's response to data/document request no 1 Such response is incorporated herein as if set forth herein verbatim

3 Produce all contracts or agreements between BLC and customers who have obtained services or rates pursuant to the special promotions identified in interrogatory number 2

RESPONSE Ben Lomand adopts and incorporates its objections 3, 6, 8 and 9 as if set forth herein verbatim Without waiving its objections, Ben Lomand would state that it denies that there are any services or rates not specifically listed in Ben Lomand's tariff filed with the TRA, other than the contract service arrangements approved by the TRA

4 Produce all documents evidencing any internal communications within BLC or documents evidencing communication between BLC and BLRTC (including memoranda, emails, letters and other documents) relating to any special promotions identified in response to interrogatory number 2

RESPONSE See response to data/document request no 3

5 Produce any documents that relate to or evidence any financial subsidies or assistance directly or indirectly received by BLC from BLRTC

RESPONSE Ben Lomand adopts and incorporates its objections 2, 3, 6 and 8 as if set forth herein verbatim Without waiving its objections, Ben Lomand would state that any such assistance has been approved by the TRA Such is a matter of public record available to Citizens However, Ben Lomand would note that the only assistance is one note guaranteed by BLRTC Such guarantee was approved by the TRA

6 Identify and produce BLC's most recent audited financial statements (Balance Sheet, Income Statement, and Statement of Cash Flows)

RESPONSE Ben Lomand adopts and incorporates its objections 2, 3, 6 and 8 as if set forth herein verbatim Without waiving its objections, Ben Lomand would stress that its financial

statements are not relevant to the issues in this docket Ben Lomand would also reiterate that no protective order has been issued in this docket Furthermore, as stated, Ben Lomand points out that the issues in this docket are tariff filing and wrongful use of Citizens' facilities, not the financial situation of Ben Lomand

7 Identify and produce BLC's projected financial statements (three (3) years)

RESPONSE See response to data/document request no 6 Furthermore, without waiving its objections, Ben Lomand would state that it does not issue three year budgets

8 Identify and produce BLC's Tennessee Capital Expenditures Budget for 2001, 2002, and 2003

RESPONSE See response to data/document request no 6 Furthermore, without waiving its objections, Ben Lomand would state that it does not do three year capital expenditure budgets

9 Identify and produce BLC's Tennessee Capital Expenditures Budget for 2001, 2002, and 2003 for Sparta and McMinnville

RESPONSE See response to data/document request no 6 Furthermore, without waiving its objections, Ben Lomand would state that it does not do capital expenditures budgets for three years

10 Identify and produce copies of all correspondence and documentation regarding BLC's business plan in the McMinnville and Sparta exchanges related to any of the special promotions identified in response to interrogatory number 2

RESPONSE Ben Lomand adopts and incorporates its objections 2, 3, 6, 7, 8 and 9 as if set forth herein verbatim Without waiving its objections, Ben Lomand would state that it denies there are any special promotions which were not specifically listed in the Ben Lomand tariff filed with the TRA

11 Identify and produce copies of all correspondence and documentation regarding BLC's analysis of the effect of any of the special promotions identified in response to interrogatory number on Citizens and other competitors of Frontier in the McMinnville and Sparta exchanges

RESPONSE See response to data/document request no 10 Furthermore, without waiving its objections, Ben Lomand would state that it has no such correspondence and documentation

12. Identify and produce copies of all documents relating to the use of Citizens' drop wires, house cabling or entrance cabling

RESPONSE Ben Lomand adopts and incorporates its objections 6, 7, 8 and 9 as if set forth herein verbatim. Further, see Ben Lomand's response to interrogatory no. 7 and the attachments thereto. Without waiving its objections, Ben Lomand would further state that it denies the use of Citizens' drop wires, house cabling, or entrance cabling. Furthermore, Ben Lomand would state that as a precautionary measure, all drop wires, house cabling, and entrance cabling in locations where Ben Lomand obtained a Citizens customer or its own customer where Citizens had such cabling, Ben Lomand has installed its own drop wires, house cabling, entrance cabling, and other facilities, therefore rendering all of Citizens' allegations moot. All such cable has been replaced by Ben Lomand, except for the customer at 800 Sparta Street as set forth above, who represents such inside cable as being owned by such customer.

13. Identify and produce any other documents not already provided that relate to (a) special promotions identified in response to interrogatory number 2 and (b) the allegations in paragraphs 11-14 of Citizens' complaint.

RESPONSE Ben Lomand adopts and incorporates its objections 2, 6, 7, 8 and 9 as if set forth herein verbatim.

Respectfully submitted,



H LaDon Baltimore, BPR #003836
FARRAR & BATES, L.L.P.
211 Seventh Avenue North, Suite 420
Nashville, TN 37219
(615) 254-3060
(615) 254-9835 FAX
Counsel for Ben Lomand Communications, Inc.

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing has been forwarded via facsimile transmission, overnight delivery, or U S Mail, first class postage prepaid, to the following, this 16th day of February, 2004.

Guilford F Thronton, Jr, Esq
Stokes, Bartholomew, Evans & Petree
424 Church Street, Suite 2800
Nashville, TN 37219


H LaDon Baltimore

May 2, 2002

Legal Department
Ben Lomand Communications, Inc
1111 Smithville Hwy
McMinnville, TN 37111

RE: Unlawful Trespass

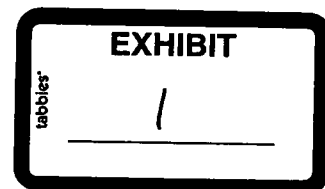
Dear Sir or Madam

I represent Citizens Telecommunications Company of Tennessee, LLC. It has come to our attention that Ben Lomand Communications is engaging in the following activities

- I • Disconnecting, splicing into and misappropriation of our entrance cable and all our terminal block, wire and other equipment at the location of the building terminal in a business building complex *Cumberland Plaza, 122 East Main*
- II • Disconnecting, splicing into and misappropriation of our drop wires to serve multiple residential customers
- III • Disconnecting, splicing into and misappropriation of our underground drop wire serving a business customer. *800 Sparta St. Wayman Hardware Constr.*
- IV • Misappropriation of our house cable in a shopping center on the telephone company side of the relevant network demarcation points *Three Stars*

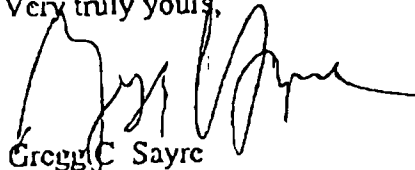
We believe that these activities constitute willful and intentional trespass and conversion. In none of these cases has BLC asked for permission, offered compensation or in any way offered any justification whatsoever for its flagrant disregard of Citizens' property rights

Frontier met with Ben Lomand representatives on March 14 to bring this matter to your attention. We were hopeful you would take immediate remedial action. However, after six weeks Ben Lomand has taken no corrective action or provided any feedback to us. We are disappointed that Ben Lomand has not been more responsive to what we consider a very serious violation of property rights



This letter is demand that BLC immediately cease and desist these activities. In particular, Citizens demands that BLC immediately cease use of Citizens' network facilities and return these facilities to Citizens' use and control. If this situation is not corrected within 30 days, we reserve our rights to initiate regulatory and/or civil proceedings against BLC including, where appropriate, the imposition of significant punitive damages for willful misconduct.

Very truly yours,



Gregg C. Sayre
Associate General Counsel -
Eastern Region

GCS: hnj

K R A S K I N, L E S S E & C O S S O N, L L P

ATTORNEYS AT LAW

2120 L Street N W, Suite 520

Washington D C 20037

TELEPHONE (202) 296-8890

TELECOPIER (202) 296-8893

May 22, 2002

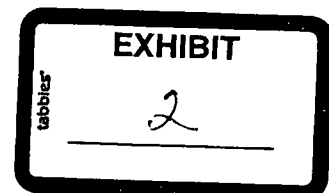
Mr. Gregg C. Sayre
Associate General Counsel
Frontier
180 South Clinton Avenue
Rochester, N.Y. 14646-0700

Dear Gregg

This letter is written on behalf of Ben Lomand Communications, Inc. ("BLC") and follows-up both the correspondence you sent to BLC on May 2, 2002 and my voice mail message to you. At the outset, I want to reiterate what I indicated to you in my phone message. BLC has not willfully or intentionally utilized any facility or property of Citizens in any manner that is inconsistent with the terms and conditions of the existing interconnection agreement between the companies and all applicable rules, regulations, and law.

The claims of wrong-doing made against BLC by local staff members of Citizens prompted an internal review of all related service provisions by BLC to ensure that the practices and actions of BLC staff and service representatives were not in error. Your letter to BLC prompted a call to our office to review and discuss the relevant FCC rule sections regarding demarcation points in a multiunit premise within the context of the serious allegations raised by Citizens. In connection with that discussion, we also reviewed and discussed with BLC § 3.5.10 of the interconnection agreement between BLC and Citizens ("Access to the Network Interface Device").

During our discussion of this matter, the representatives of BLC presented the factual scenarios related to the specific instances that were the subject of the claims raised by Citizens' staff in their calls to BLC. Based on our understanding of the facts, the applicable FCC rules and the effective interconnection agreement, we are convinced that BLC's practices and actions are in compliance with all applicable rules, regulations and law. Nonetheless, both BLC and we agree that we may be unintentionally mistaken or unaware of a fact that would change our analysis.



Page 2

BLC believes, however, that the claims and allegations that have been made by your company's local staff are most likely reflective of the competitive pressures on individual operating personnel who may not be fully familiar with the applicable FCC rules and the relevant sections of the interconnection agreement. BLC staff representatives believe that the allegations and claims made by Citizens constitute harassment intended to distract BLC's resources from its competitive endeavor. Accordingly, BLC respectfully asks that you review the matter with your staff and provide a description of any specific circumstance where, after your review, you still believe that BLC has in any way acted contrary to applicable rules, regulations, law and the pertinent sections of the interconnection agreement between the parties.

In the event that BLC is incorrect in its analysis in any way or with respect to any instance, BLC stands ready, willing and able to act promptly to remedy any specific concern brought to its attention. Please let me know at your convenience the results of your review in order that we might discuss how best to resolve this matter between BLC and Citizens fully and in a mutually satisfactory manner without the necessity of formal processes, if possible.

Sincerely,



Stephen G. Kraskin

cc Mr. Levoy Knowles